

STAFFORD COUNTY BOARD OF ZONING APPEALS

AGENDA

GEORGE L. GORDON, JR., GOVERNMENT CENTER
BOARD OF SUPERVISORS CHAMBERS
1300 COURTHOUSE ROAD

SEPTEMBER 24, 2013
REGULAR MEETING
7:00 P.M.

CALL TO ORDER BY CHAIRMAN

ROLL CALL

DETERMINATION OF QUORUM

DECLARATIONS OF DISQUALIFICATIONS

PUBLIC HEARINGS

1. **A13-04/1300279 - Leming & Healy, P.C. for Ramco Virginia Properties, LLC** - Appeal of a Notice of Violation dated March 4, 2013 regarding Section 28-35, Table 3.1 "District Uses and Standards", for the contractor's equipment and storage yard use on Assessor's Parcel 21-49. The property is zoned P-TND, Traditional Neighborhood Development, located at 475 Aquia Towne Center Drive.
2. **A13-05/1300280 - Leming and Healy, P.C. Ramco Virginia Properties, LLC** - Appeal of a Notice of Violation dated March 4, 2013 regarding Article XIV. "Site Plans"; Section 28-245, "When Required", for stockpiling without an approved major grading plan on Assessor's Parcel 21-49. The property is zoned P-TND, Traditional Neighborhood Development, located at 475 Aquia Towne Center Drive.

UNFINISHED BUSINESS

Draft By-Laws and Preamble

OTHER BUSINESS

None

ADOPTION OF MINUTES

June 25, 2013

July 23, 2013

ZONING ADMINISTRATOR'S REPORT

ADJOURNMENT

STAFFORD *Virginia*

Board of Supervisors

Susan B. Stimpson, Chairman
Robert "Bob" Thomas, Jr., Vice Chairman
Jack R. Cavalier
Paul V. Milde, III
Ty A. Schieber
Gary F. Snellings
Cord A. Sterling

Anthony J. Romanello, ICMA-CM
County Administrator

September 24, 2013

MEMORANDUM TO: Stafford County Board of Zoning Appeals

FROM: Melody Musante
Zoning Manager

SUBJECT: **A13-02/1300279**

ATTACHMENTS:

1. Application/owners consent form
2. Copy of Violation notice dtd 3/4/13
3. Photos of violation
4. Aerial Photos

ISSUE:

The Board is to consider an Appeal of a Notice of Violation dated March 4, 2013 regarding Section 28-35, Table 3.1 "District Uses and Standards", for the contractor's equipment and storage yard on Assessor's Parcel 21-49. The property is zoned P-TND, Traditional Neighborhood Development, located at 475 Aquia Towne Center Drive.

PARCEL INFORMATION:

Location: 21-49
Election District: Aquia
Parcel Size: 32.75 AC
Zoning: P-TND, Traditional Neighborhood Development



Property Owners: Assessor's Parcel 21-49
Ramco Virginia Properties, LLC
31500 Northwestern Hwy, Ste. 300
Farmington Hills, MI 48334

Applicants: Leming & Healy, PC for Ramco Virginia Properties, LLC
233 Garrisonville Road, Suite 204
Stafford, VA 22554

Agent: H. Clark Leming, Attorney

Current Use: Office/Retail

Proposed Use: Office/Retail

Application Date: Original 4/3/13, Amended 6/14/13

Comprehensive Plan: Commercial Nodes/Suburban

Abutting Properties:

<u>Location</u>	<u>Zoning</u>	<u>Parcel</u>	<u>Use</u>	<u>Land Use Plan</u>
North	R-1	21-49A	Vacant Land	Suburban
South	R-1	21B (Aquia Harbour Sub)	Residential	Suburban
East	B-2	21B-9	Security & Rescue	Suburban
West	B-2	21-49I	Restaurant	Comm Nodes/Suburban

APPLICABLE BACKGROUND:

The applicant is appealing a Notice of Violation dated March 4, 2013 regarding Section 28-35, Table 3.1 "District Uses and Standards", for the contractor's equipment and storage yard on Assessor's Parcel 21-49.

Response to Appeal Justification
(Responses in bold)

Ramco admits that the County Code does not permit a property zoned P-TND, Planned Traditional Neighborhood Development District to be used as a contractor's equipment and storage yard. Ramco states that they understand contractor's equipment to be construction machinery such as bulldozers, bobcats and the like which none is being stored on the property.

Section 28-35. Table 3.1 "District Uses and Standards" does not permit a contractor's equipment and storage yard on property zoned P-TND.

On February 28, 2013, Staff inspected the property and took several photographs (see attached). In those photographs, a vehicle with a number of pipes/hoses attached to it and a truck with ladders were parked on the site. These vehicles were in addition to the various parts of concrete culverts and black drain pipe being stored on the property.

The corrective measures stated in the notice of violation was to cease using the property for a contractor's equipment and storage yard and remove all such equipment and materials from the property. The applicant chose to submit an appeal of the notice of violation and not to remove the contractor's equipment or the portions of concrete culverts and black pipe.

The applicant also states that the approved Erosion and Sedimentation Control Plan allows for the temporary storage of construction material on a site.

The Erosion and Sedimentation Plan provides for many types of temporary measures while a site is being developed. The storage of construction material on an active development site is an accepted practice and is of a temporary nature because as the development progresses, the material is used and the project is completed. The applicant has stated that for this development, the decline in the economy has caused a slowdown in the development of the site. Consequently, Ramco has been forced to store culverts and pipes on a portion of the property. According to the County aerial photos, the culverts and pipes have been in place since 2010 with no signs activity on the site.

By the request of the applicant, the hearing has been deferred since May. In July, the applicant began removing the concrete culverts and currently there are none on the site. The black pipe still remains on the site.

EXISTING CONDITIONS



VICINITY MAP



STAFFORD COUNTY
Department of Planning and Zoning



RECEIVED BUT NOT OFFICIALLY
SUBMITTED
DATE 6-14-13 INITIALS MM
OFFICIALLY SUBMITTED

DATE: _____ INITIALS: _____

APPEAL APPLICATION

<u>APPEAL</u>	<u>1300279</u>	
TYPE OF APPLICATION	APPLICATION NUMBER	
<u>APPLICANT INFORMATION</u>		
H. Clark Leming, Leming and Healy, PC for RAMCO Virginia Properties LLC		
NAME		
233 Garrisonville Road, Suite 204		
STREET ADDRESS		
Stafford	VA	22554
CITY	STATE	ZIP
540-659-5155		
PHONE	CELL	
540-659-1651	lemingandhealy1@msn.com	
FAX	EMAIL	
<u>OWNER INFORMATION</u>		
Ramco Virginia Properties LLC		
NAME		
31500 Northwestern Hwy., Suite 300	Farmington Hills	MI 48334
ADDRESS	CITY	STATE ZIP
PHONE NUMBER	CELL	FAX NUMBER
EMAIL ADDRESS		
<u>PROPERTY INFORMATION</u>		
21-49		32 748
TAX MAP	SECTION	PARCEL/LOT#
		PTND
SUBDIVISION	ZONING DISTRICT	
EXISTING USE	PROPOSED USE	
COMPREHENSIVE PLAN DESIGNATION	MAGISTERIAL DISTRICT	
<u>FOR OFFICE USE ONLY</u>		
APPLICATION APPROVED BY	DATE	
<u>A13-4</u>	<u>1300279</u>	
CASE #	APPLICATION #	
FEE PAID	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

IV. GENERAL INFORMATION

The Appeal requested is for the following reason:

Appeal the Zoning Administrators Decision/Interpretation

Please provide a copy of the decision/interpretation and the date received: _____

Appeal a Notice of Violation

Please provide the file # 1300101 *,* *date received* March 4, 2013 *,*
and a copy of the notice.

Other, please specify : _____

V. APPEAL JUSTIFICATION

Please provide a narrative which specifies the reason(s) you deem an Appeal necessary. You may use additional sheets, if necessary:

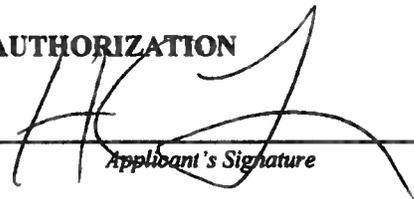
SEE ATTACHED

APPEAL JUSTIFICATION (Continued)

[Empty box for appeal justification]

VI. AUTHORIZATION





Applicant's Signature

6-14-13

Date

OWNER'S CONSENT FORM

On behalf of Ramco Virginia Properties, LLC, I authorize Ramco-Gershenson, and its counsel, Leming and Healy P.C., to apply for an Appeal Application of Assessor's Parcel 21-49 as shown on the records of the Commissioner of the Revenue for Stafford County, Virginia.

RAMCO VIRGINIA PROPERTIES, LLC

By: Frederick A Zantello
Name: FREDERICK A ZANTELO
Title: EXECUTIVE VICE PRESIDENT

STATE/Commonwealth of Michigan
COUNTY/CITY OF Oakland, to wit:

I the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Frederick A. Zantello, whose name as Executive Vice President of Ramco Virginia Properties, LLC, is signed to the foregoing document, has personally acknowledged the same before me in my aforesaid jurisdiction for the corporation.

GIVEN under my hand and seal this 15 day of March, 2013.

[Signature]
Notary Public

My Commission Expires: _____

VICTORIA L. CARLINO
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Sep 14, 2013
ACTING IN COUNTY OF Oakland

Justification of Appeal

Ramco Virginia Properties, L.L.C. ("Ramco") appeals the notice of violation issued by Stafford County finding that Ramco is improperly using its property as a storage yard in violation of the County Code. Ramco requests that this Board reverse the violation.

Background

On March 4, 2013, the Stafford County Department of Planning and Zoning issued two notices of violation to Ramco. The violations do not make clear if they relate to the same portion of the property or if they are independent of one another and relate to two separate portions of the property. This appeal relates to the notice of violation assigned file number 1300101.

The notice of violation found a violation of County Code § 28-35, Table 3.1, District Uses and Standards, because the "County Code does not permit a contractor's equipment and storage yard on property zone[d] P-TND." The zoning technician found that Ramco was storing contractor's equipment, culverts and pipes on the vacant portion of the property. This violation is referred to as the "Storage Yard Violation," and a copy of the violation is attached as **Exhibit A**.

The County Code does not define "contractor's equipment and store yard." Further, the County Code does not define "contractor's equipment" or "storage yard."

It is Ramco's understanding that the Storage Yard Violation only relates to the storage of the culverts and pipes on the site. The Storage Yard violation does not appear to relate to the storage of the gravel and recycled concrete on the site, which is addressed by notice of violation, file number 1300103, and the related appeal.

The Storage Yard Violation also states that Ramco is storing contractor's equipment on the property. The County Code does not define contractor's equipment. The definition of "fleet parking" in County Code Section 28-25 states that fleet parking does not include "parking and storage of . . . construction equipment such as bulldozers, front loaders, backhoes and similar devices which are not licensed to operate on state roads." Accordingly, Ramco understands contractor's equipment to mean construction machinery such as bulldozers, front loaders, backhoes, bobcats, and the like. However, the violation does not identify any machinery being stored on the site—only the culverts and pipes.

Ramco owns Stafford County Commissioner of the Revenue tax map parcel 21-49, which is zoned P-TND and is part of Aquia Towne Center (the "Property"). Ramco began to redevelop the Property, but the decline in the economy and resulting decrease in consumer spending have caused the slowdown of the redevelopment project. Accordingly, Ramco has been forced to temporarily place culverts and pipes on a portion of the Property consisting of approximately 15,000 square feet. None of these items will be permanently left on the Property.

The Aquia Towne Center Erosion and Sediment Control Plan submitted to and approved by the County states on Sheet 28 under Management Strategies, Phase I, number 6:

The temporary stockpiling of earth and construction materials shall only be permitted in areas scheduled for development. Earth stockpiles shall be stabilized with temporary vegetation in accordance with county and state erosion control practices.

Accordingly, the Erosion and Sediment Control Plan allows temporary stockpiling of construction materials on the Property.

Neither the Erosion and Sediment Control Plan nor the County Code define temporary. However, Merriam-Webster's 1998 Collegiate Dictionary defines "temporary" as lasting for a limited time. Further, the General Assembly has recognized the impact of the economy on development. The General Assembly passed Virginia Code Section 15.2-2209, which extends the validity of the Aquia Towne Center site plan to July 1, 2017 meaning that the approval of temporary stockpiling of earth and construction materials has been extended to 2017.

Lastly, the County Code does not define construction materials, but Ramco understands construction materials to mean those items used in the building process and the by-products of the building process.

Argument

Ramco admits that the County Code does not allow for P-TND zoned property to be used as a contractor's equipment and storage yard. However, Ramco is not using the Property as a storage yard. Ramco is only temporarily storing those materials on the Property allowed by the Erosion and Sediment Control Plan, which permits "[t]he temporary stockpiling of earth and construction materials"

The Storage Yard Violation states that "contractor's equipment" is being stored on the Property. The violation does not indicate what contractor's equipment was on the Property and only mentions the culverts and pipes. Contractor's equipment is not defined by the County Code, but Ramco understands contractor's equipment to mean construction machinery such as bulldozers, bobcats, and the like.

Contrary to the Storage Yard Violation, Ramco is not storing "contractor's equipment" on the Property. The aerial picture shows the vicinity where the culverts and pipes are located and is attached as **Exhibit B**. As evidenced by the aerial picture, no construction machinery is being stored on the Property. Accordingly, Ramco contests the finding that it was storing "contractor's equipment" on the Property.

The Storage Yard Violation also states that Ramco is storing culverts and pipes on the vacant portion of the Property. Pursuant to the Erosion and Sediment Control Plan, Ramco was expressly permitted to store "construction materials" on the Property. "Construction materials" is a broad term and would include those items that are to be used in the construction process, which includes the culverts and pipes identified by the County. Further, the pipes and culverts are only being stored on the Property temporarily. Pursuant to Virginia Code Section 15.2-2209,

the Aquia Towne Center plans have been temporarily extended to July 1, 2017. Due to this extension, Ramco is permitted to store the items at issue. Accordingly, Ramco is simply storing the construction materials, as it is permitted to do.

Conclusion

The County expressly allowed for the temporary stockpiling of earth and construction materials on the Property when it approved the Erosion and Sediment Control Plan. The Storage Yard Violation only identifies storage of items as allowed by the County approved Erosion and Sediment Control Plan. Therefore, the Storage Yard Violation issued to Ramco was erroneous, and Ramco requests that the Board overturn the violation issued by the Stafford County Department of Planning and Zoning.



COUNTY OF STAFFORD
Department of Planning and Zoning
1300 Courthouse Rd
PO Box 339
Stafford, Virginia 22555-0339
Phone: (540) 658-8668
Metro: (703) 690-8222

NOTICE OF VIOLATION

File #: 1300101
Date: Mar. 04, 2013
Parcel #: 21-49
Zoning District: P-TND
Certified Mail #: 70113500000017843394

Ramco Virginia Properties LLC
31500 Northwestern Hwy, Ste 300
Farmington Hills, MI 48334-5408

Dear Ramco Virginia Properties LLC:

Inspection was made at 475 Aquia Towne Center Drive on 02/28/13. At that time, the following violation of Stafford County Code was noted:

VIOLATION OF: SEC.28-35. Table 3.1. "DISTRICT USES & STANDARDS"

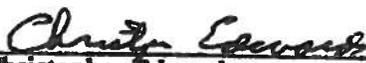
The Stafford County Code does not permit a contractor's equipment and storage yard on property zone P-TND. Currently you are storing contractor's equipment, culverts and pipes on the vacant portion of Aquia Towne Center.

Accordingly, the following corrective measures must be taken within thirty (30) day(s) from receipt of this letter:

Cease using the property for a contractor's equipment and storage yard and remove all such equipment and materials from the property.

Please be aware that failure to comply with the above order may result in your being formally charged in a court of law with this violation and appropriate fines will be recommended for each day the violation continues. Each day a violation continues constitutes a separate offense. Of course, we do not wish to proceed in this manner. You have thirty (30) days from receipt of this letter in which to appeal this decision to the Board of Zoning Appeals, in accordance with 15.2-2311 of the Code of Virginia, or this decision shall be final and unappealable.

You may obtain the appeal application at www.staffordcountyva.gov. The associated fee is \$1952.25 for a commercial application. Should you need additional information regarding this matter, I can be reached at (540) 658-8668.

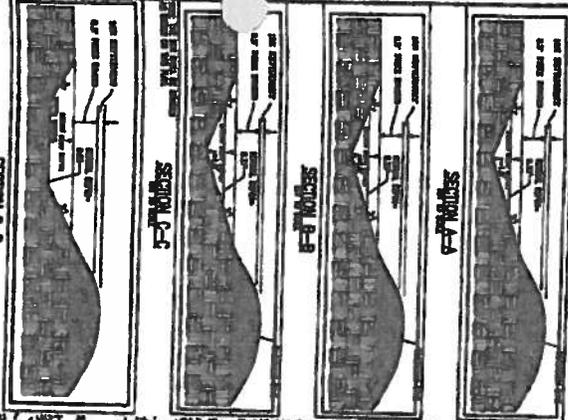


Christopher Edwards
Zoning Technician
Department of Planning and Zoning

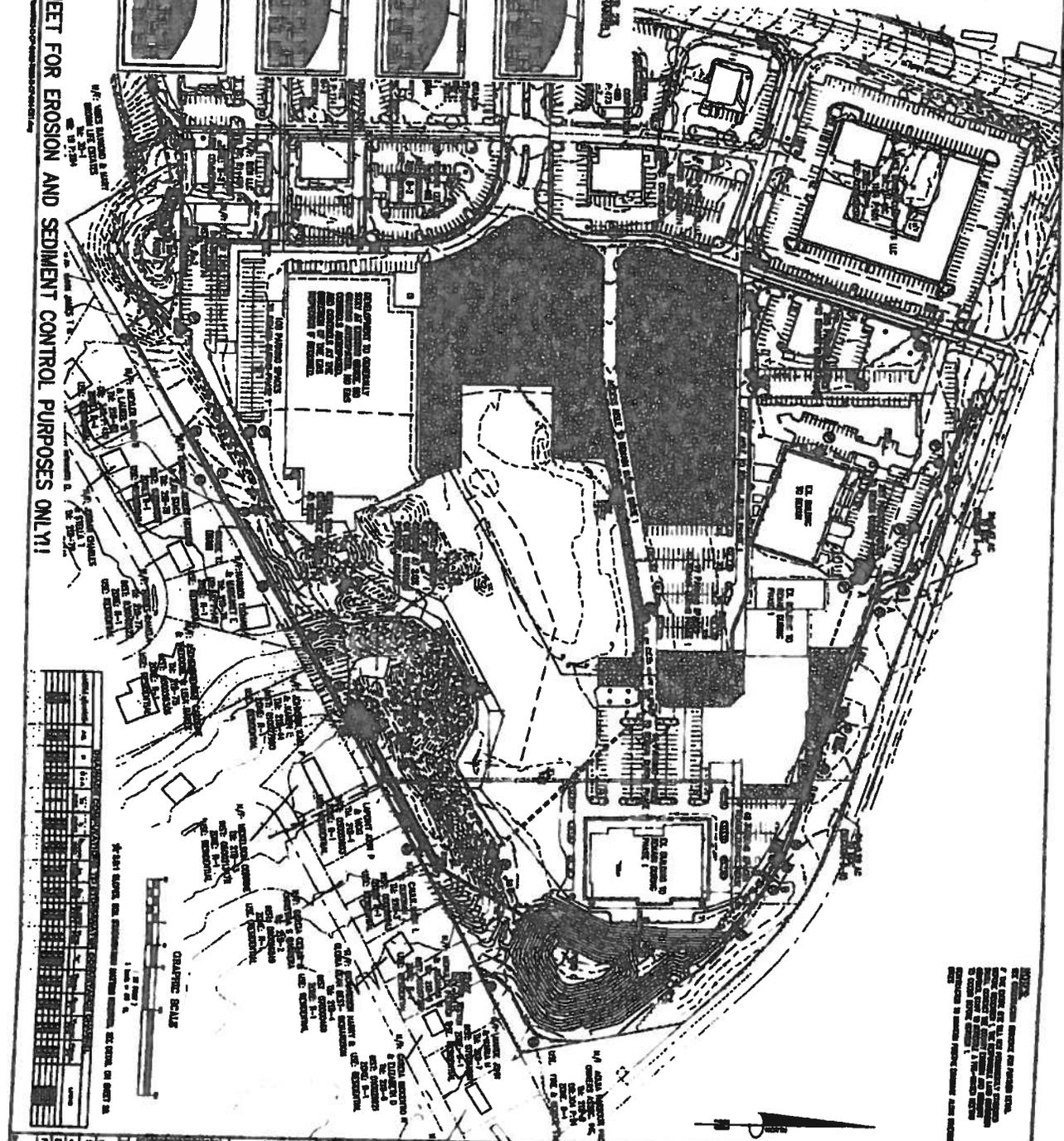


NO.	TITLE	REV.	SYMBOL
2.01	CONCRETE CURB	01	[Symbol]
2.02	CONCRETE CURB WITH DRAINAGE	01	[Symbol]
2.03	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.04	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.05	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.06	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.07	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.08	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.09	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.10	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.11	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.12	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.13	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.14	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.15	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.16	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.17	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.18	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.19	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]
2.20	CONCRETE CURB WITH DRAINAGE AND CURB	01	[Symbol]

TYPICAL DETAILS FOR EROSION CONTROL (OBTAINED AS PER APPROVED PERMITS)



THIS SHEET FOR EROSION AND SEDIMENT CONTROL PURPOSES ONLY



NO.	DESCRIPTION	REV.	DATE
1	ISSUED FOR PERMIT	01	01/11/11
2	REVISED TO SHOW CHANGES	02	02/11/11
3	REVISED TO SHOW CHANGES	03	03/11/11
4	REVISED TO SHOW CHANGES	04	04/11/11
5	REVISED TO SHOW CHANGES	05	05/11/11
6	REVISED TO SHOW CHANGES	06	06/11/11
7	REVISED TO SHOW CHANGES	07	07/11/11
8	REVISED TO SHOW CHANGES	08	08/11/11
9	REVISED TO SHOW CHANGES	09	09/11/11
10	REVISED TO SHOW CHANGES	10	10/11/11
11	REVISED TO SHOW CHANGES	11	11/11/11
12	REVISED TO SHOW CHANGES	12	12/11/11
13	REVISED TO SHOW CHANGES	13	13/11/11
14	REVISED TO SHOW CHANGES	14	14/11/11
15	REVISED TO SHOW CHANGES	15	15/11/11
16	REVISED TO SHOW CHANGES	16	16/11/11
17	REVISED TO SHOW CHANGES	17	17/11/11
18	REVISED TO SHOW CHANGES	18	18/11/11
19	REVISED TO SHOW CHANGES	19	19/11/11
20	REVISED TO SHOW CHANGES	20	20/11/11

26 of 61

EROSION & SEDIMENT CONTROL PLAN PHASE I
THE TOWN CENTER AT AQUA

AQUA MANAGERIAL DISTRICT STAFFORD COUNTY VIRGINIA

Bowman
CONSULTING

10000 Old Dominion Blvd
Suite 1000
Richmond, Virginia 23234

Phone: (804) 271-4000
Fax: (804) 271-4000
www.bowmanconsulting.com

1. EROSION CONTROL PLAN

The erosion control plan shall be designed to prevent erosion and sedimentation from the construction site. The plan shall include the following:

1. A detailed site plan showing the location of all erosion control measures.
2. A description of the erosion control measures to be used, including the type of silt fence, sediment trap, or other device.
3. A schedule for the installation and maintenance of the erosion control measures.
4. A description of the procedures to be used to monitor the effectiveness of the erosion control measures.
5. A description of the procedures to be used to maintain the erosion control measures.

2. SEDIMENT CONTROL PLAN

The sediment control plan shall be designed to prevent sediment from leaving the construction site. The plan shall include the following:

1. A detailed site plan showing the location of all sediment control measures.
2. A description of the sediment control measures to be used, including the type of silt fence, sediment trap, or other device.
3. A schedule for the installation and maintenance of the sediment control measures.
4. A description of the procedures to be used to monitor the effectiveness of the sediment control measures.
5. A description of the procedures to be used to maintain the sediment control measures.

3. TEMPORARY SEEDING TABLE

The temporary seeding table shall be used to determine the amount of seed to be applied to the site. The table shall include the following information:

Area	Soil Type	Seed Rate (lb/1000 sq ft)	Notes
Area 1	Clay	1.0	
Area 2	Silt	1.0	
Area 3	Sand	1.0	
Area 4	Gravel	1.0	
Area 5	Rock	1.0	

4. PERMANENT SEEDING TABLE

The permanent seeding table shall be used to determine the amount of seed to be applied to the site. The table shall include the following information:

Area	Soil Type	Seed Rate (lb/1000 sq ft)	Notes
Area 1	Clay	1.0	
Area 2	Silt	1.0	
Area 3	Sand	1.0	
Area 4	Gravel	1.0	
Area 5	Rock	1.0	

1. EROSION CONTROL PLAN

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5. EROSION CONTROL MEASURES

The erosion control measures shall be designed to prevent erosion and sedimentation from the construction site. The measures shall include the following:

1. Silt fences
2. Sediment traps
3. Erosion control blankets
4. Erosion control mats
5. Erosion control tubes

6. SEDIMENT CONTROL MEASURES

The sediment control measures shall be designed to prevent sediment from leaving the construction site. The measures shall include the following:

1. Silt fences
2. Sediment traps
3. Erosion control blankets
4. Erosion control mats
5. Erosion control tubes

7. SEEDING MEASURES

The seeding measures shall be designed to prevent erosion and sedimentation from the construction site. The measures shall include the following:

1. Temporary seeding
2. Permanent seeding



COUNTY OF STAFFORD
Department of Planning and Zoning
1300 Courthouse Rd
PO Box 339
Stafford, Virginia 22555-0339
Phone: (540) 658-8668
Metro: (703) 690-8222

NOTICE OF VIOLATION

File #: 1300101
Date: Mar. 04, 2013
Parcel #: 21-49
Zoning District: P-TND
Certified Mail #: 70113500000017843370

Ramco Virginia Properties LLC
c/o CT Corporation System, Registered Agent
4701 Cox Road, Suite 301
Glen Allen, VA 23060-6802

Dear Ramco Virginia Properties LLC:

Inspection was made at **475 Aquia Towne Center Drive on 02/28/13**. At that time, the following violation of Stafford County Code was noted:

VIOLATION OF: SEC.28-35. Table 3.1. "DISTRICT USES & STANDARDS"

The Stafford County Code does not permit a contractor's equipment and storage yard on property zone P-TND. Currently you are storing contractor's equipment, culverts and pipes on the vacant portion of Aquia Towne Center.

Accordingly, the following corrective measures must be taken within **thirty (30) day(s)** from receipt of this letter:

Cease using the property for a contractor's equipment and storage yard and remove all such equipment and materials from the property.

Please be aware that failure to comply with the above order may result in your being formally charged in a court of law with this violation and appropriate fines will be recommended for each day the violation continues. Each day a violation continues constitutes a separate offense. Of course, we do not wish to proceed in this manner. You have **thirty (30) days** from receipt of this letter in which to appeal this decision to the Board of Zoning Appeals, in accordance with 15.2-2311 of the Code of Virginia, or this decision shall be final and unappealable.

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Christopher Edwards

Christopher Edwards
Zoning Technician
Department of Planning and Zoning

Contractor Equipment as of February, 2013



Contractor's Equipment July, 2013



February 2009

Parcel: 2149



January 2010

Parcel: 2149



WASHINGTON DR

TOWN CENTER DR

LOUISIANA TOWNSHIP CTR DR

JEFFERSON DAVIS HWY

DERRICK LN

500

250

March 2011

Parcel: 2149



March 2012

Parcel: 2149



March 2013

Parcel: 2149



STAFFORD *Virginia*

Board of Supervisors

Susan B. Stimpson, Chairman
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Cord A. Sterling

Anthony J. Romanello, ICMA-CM
County Administrator

September 24, 2013

MEMORANDUM TO: Stafford County Board of Zoning Appeals

FROM: Melody Musante
Zoning Manager

SUBJECT: *A13-03/1300280*

ATTACHMENTS:

1. Application/owners consent form
2. Copy of violation notice dtd 3/4/13
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4. Aerial Photos

ISSUE:

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PARCEL INFORMATION:

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Election District: Aquia

Parcel Size: 32.75 AC

Zoning: P-TND, Traditional Neighborhood Development



Property Owners: Assessor's Parcel 21-49
Ramco Virginia Properties LLC
31500 Northwestern Hwy, Ste. 300
Farmington Hills, MI 48334

Applicants: Leming & Healy, PC for Ramco Virginia Properties, LLC
233 Garrisonville Road, Suite 204
Stafford, VA 22554

Agent: H. Clark Leming, Attorney

Current Use: Office/Retail

Proposed Use: Office/Retail

Application Date: Original 4/3/13, Amended 6/14/13

Comprehensive Plan: Commercial Nodes/Suburban

Abutting Properties:

<u>Location</u>	<u>Zoning</u>	<u>Parcel</u>	<u>Use</u>	<u>Land Use Plan</u>
North	R-1	21-49A	Vacant Land	Suburban
South	R-1	21B (Aquia Harbour Sub)	Residential	Suburban
East	B-2	21B-9	Security & Rescue	Suburban
West	B-2	21-49I	Restaurant	Comm Nodes/Suburban

APPLICABLE BACKGROUND:

The applicant is appealing a Notice of Violation dated March 4, 2013 regarding Article XIV. "Site Plans"; Section 28-245, "When Required", for stockpiling without an approved major grading plan on Assessor's Parcel 21-49.

Response to Appeal Justification
(Responses in bold)

Staff response to Appeal Justification

Ramco received permission for the temporary stockpiling of materials as part of its Erosion and Sediment Control Plan approved by the County, and such activity does not support the notice of violation.

Article XIV, Site Plans, Section 28-245 "When required" (e) states: "A major grading plan may be required for the purposes of clearing, grading or stockpiling an area twenty-one thousand seven hundred eighty (21,780) square feet (one-half acre) or more that does not involved any structures, buildings or public facilities."

A grading plan can provide for the temporary stockpiling of material if it is included in the approved plan. The grading plan currently approved as part of the approved site plan for this property does not include any area designated for the stockpiling of material.

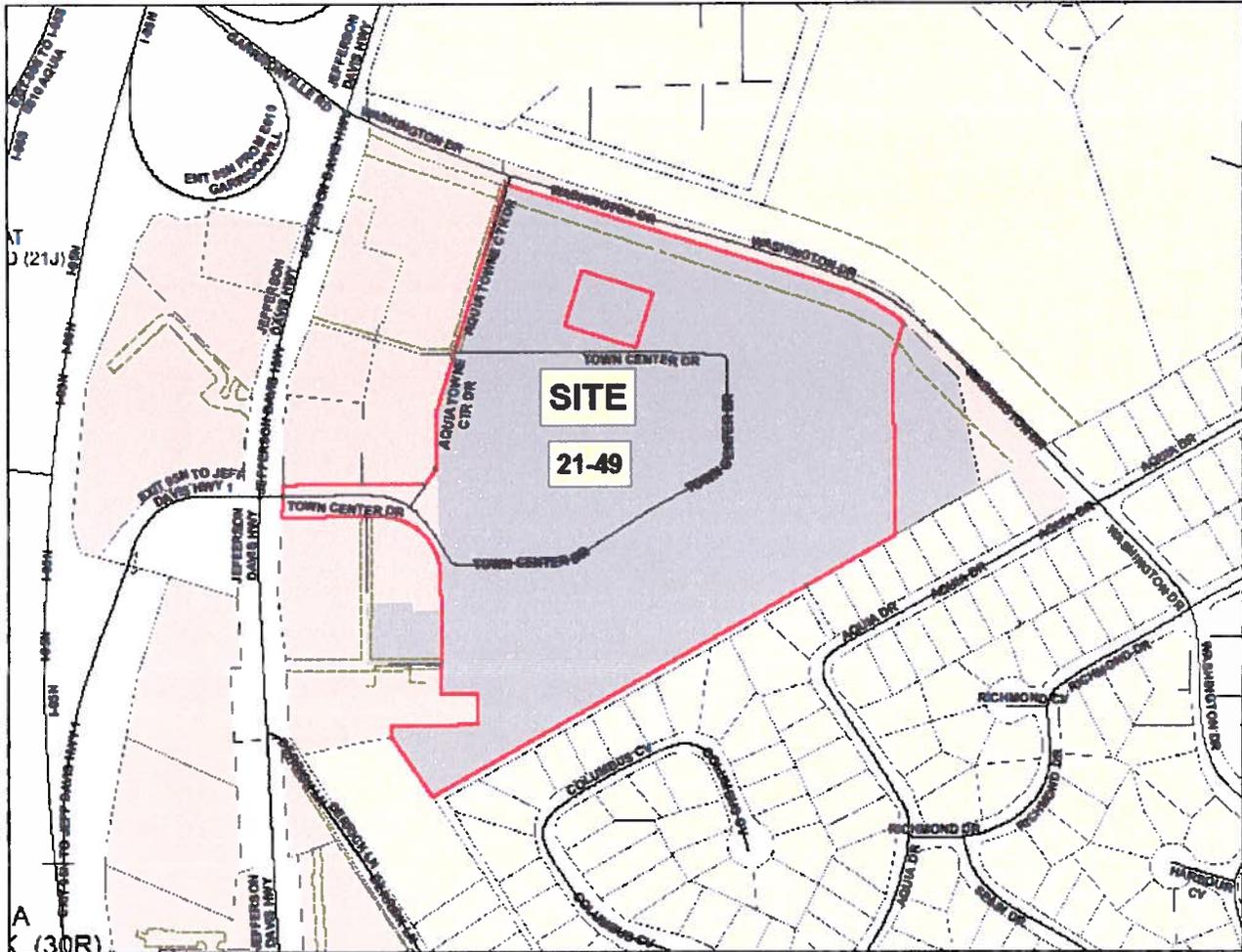
The corrective measures stated were to submit an application for a major grading plan to include the stockpiling and receive approval of said plan or cease stockpiling and remove all stockpile material from the site. The applicant did not choose either of the stated corrective measures and chose to appeal of the notice of violation to the Board of Zoning Appeals (BZA). The appeal was submitted on April 3, 2013 to be heard by the BZA on May 28, 2013.

By the request of the applicant, the hearing has been deferred since May. In July, the applicant began reducing the stockpile of topsoil by spreading it over the site and started crushing the broken concrete. To date, the stockpile of topsoil has been removed by using the soil in the re-grading of the site and the broken concrete has been crushed and re-stockpiled. There is no record that a new plan has been submitted to the County showing the location of the stockpiles.

EXISTING CONDITIONS



TAX MAP



VICINITY MAP



STAFFORD COUNTY
Department of Planning and Zoning
APPEAL APPLICATION



RECEIVED BUT NOT OFFICIALLY
SUBMITTED
DATE: 6-14-13 INITIALS: MM
OFFICIALLY SUBMITTED
DATE: _____ INITIALS: _____

APPEAL
TYPE OF APPLICATION 1300280
APPLICATION NUMBER

APPLICANT INFORMATION

H. Clark Leming, Leming and Healy, PC for RAMCO Virginia Properties LLC
NAME
233 Garrisonville Road, Suite 204
STREET ADDRESS
Stafford VA 22554
CITY STATE ZIP
540-659-5155
PHONE CELL
540-659-1651 lemingandhealy1@msn.com
FAX EMAIL

OWNER INFORMATION

Ramco Virginia Properties LLC
NAME
31500 Northwestern Hwy., Suite 300 Farmington Hills MI 48334
ADDRESS CITY STATE ZIP
PHONE NUMBER CELL FAX NUMBER
EMAIL ADDRESS

PROPERTY INFORMATION

21-49 32.748
TAX MAP SECTION PARCEL/LOT# LOT SIZE
SUBDIVISION PTND
ZONING DISTRICT
EXISTING USE PROPOSED USE
COMPREHENSIVE PLAN DESIGNATION MAGISTERIAL DISTRICT

FOR OFFICE USE ONLY

APPLICATION APPROVED BY A13-5 DATE 1300280
CASE # APPLICATION #
FEES PAID: YES NO

IV. GENERAL INFORMATION

The Appeal requested is for the following reason:

Appeal the Zoning Administrators Decision/Interpretation

Please provide a copy of the decision/interpretation and the date received: _____

Appeal a Notice of Violation

Please provide the file # 1300103 _____, date received March 4, 2013 _____, and a copy of the notice.

Other, please specify : _____

V. APPEAL JUSTIFICATION

Please provide a narrative which specifies the reason(s) you deem an Appeal necessary. You may use additional sheets, if necessary:

SEE ATTACHED

APPEAL JUSTIFICATION (Continued)

[Empty rectangular box for appeal justification text]

VI. AUTHORIZATION



[Handwritten Signature]

Applicant's Signature

6-14-13

Date

OWNER'S CONSENT FORM

On behalf of Ramco Virginia Properties, LLC, I authorize Ramco-Gershenson, and its counsel, Leming and Healy P.C., to apply for an Appeal Application of Assessor's Parcel 21-49 as shown on the records of the Commissioner of the Revenue for Stafford County, Virginia.

RAMCO VIRGINIA PROPERTIES, LLC

By: Frederick A Zantello
Name: FREDERICK A/ZANTELO
Title: EXECUTIVE VICE PRESIDENT

STATE/Commonwealth of Michigan
COUNTY/CITY OF Oakland, to wit:

I the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Frederick A. Zantello, whose name as Executive Vice President of Ramco Virginia Properties, LLC, is signed to the foregoing document, has personally acknowledged the same before me in my aforesaid jurisdiction for the corporation.

GIVEN under my hand and seal this 15 day of March, 2013.

Victoria L. Carlino
Notary Public

My Commission Expires: _____

VICTORIA L. CARLINO
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Sep 14, 2013
ACTING IN COUNTY OF Oakland

Justification of Appeal

Ramco Virginia Properties, L.L.C. ("Ramco") appeals the notice of violation issued by Stafford County finding that Ramco is stockpiling material in violation of the County Code. Ramco requests that this Board reverse the violation.

Background

On March 4, 2013, the Stafford County Department of Planning and Zoning issued two notices of violation to Ramco. The violations do not make clear if they relate to the same portion of the property or if they are independent of one another and relate to two separate portions of the property. This appeal relates to the notice of violation assigned file number 1300103.

The notice of violation found a violation of County Code § 28-245(e) based on stockpiling material on the property. County Code § 28-245(e) states: "A major grading plan may be required for the purpose of clearing, grading or stockpiling an area twenty-one thousand seven hundred eighty (21,780) square feet (one-half acre) or more that does not involve any structures, buildings or public facilities." The zoning technician found that the "grading plan currently approved as part of the approved site plan for this property does not include any area designated for the stockpiling of material." This violation is referred to as the "Stockpiling Violation," and a copy of the Stockpiling Violation is attached as **Exhibit A**.

The County Code does not define stockpiling. However, it is Ramco's understanding that the Stockpiling Violation relates to the temporary storage of gravel and recycled concrete on the site. The Stockpiling Violation does not appear to relate to the storage of the culverts and pipes, which is addressed by notice of violation, file number 1300101, and the related appeal.

Ramco owns Stafford County Commissioner of the Revenue tax map parcel 21-49, which is zoned P-TND and is part of Aquia Towne Center (the "Property"). Ramco began to redevelop the Property, but the decline in the economy and resulting decrease in consumer spending have caused the slowdown of the redevelopment project. Accordingly, Ramco has been forced to temporarily store gravel and recycled concrete on a portion of the Property, which is approximately 38,000 square feet. These items will not be permanently left on the Property.

The use of these materials is necessary to successfully complete the project due to the steep grades on the property that would otherwise prevent retail development. The use of these materials also permits Ramco to meet certain LEED requirements and obtain "points" under the LEED system for utilizing on-site materials for a secondary purpose and reduces fuel consumption by not transporting the materials offsite and then returning the material to the site when construction occurs.

The Aquia Towne Center Erosion and Sediment Control Plan submitted to and approved by the County states on Sheet 28 under Management Strategies, Phase I, number 6:

The temporary stockpiling of earth and construction materials shall only be permitted in areas scheduled for development. Earth stockpiles shall be stabilized

with temporary vegetation in accordance with county and state erosion control practices.

Accordingly, the Erosion and Sediment Control Plan allows temporary stockpiling of construction materials on the Property.

Neither the Erosion and Sediment Control Plan nor the County Code define temporary. However, Merriam-Webster's 1998 Collegiate Dictionary defines "temporary" as lasting for a limited time. Further, the General Assembly has recognized the impact of the economy on development. The General Assembly passed Virginia Code Section 15.2-2209, which extends the validity of the Aquia Towne Center site plan to July 1, 2017 meaning that the approval of temporary stockpiling of earth and construction materials has been extended to 2017.

Lastly, the County Code does not define construction materials, but Ramco understands construction materials to mean those items used in the building process and the by-products of the building process.

Argument

Ramco received permission for the temporary stockpiling of materials as part of its Erosion and Sediment Control Plan approved by the County, and such activity does not support the notice of violation. The Stockpiling Violation states that the "grading plan currently approved as part of the approved site plan for this property does not include any area designated for the stockpiling of material."

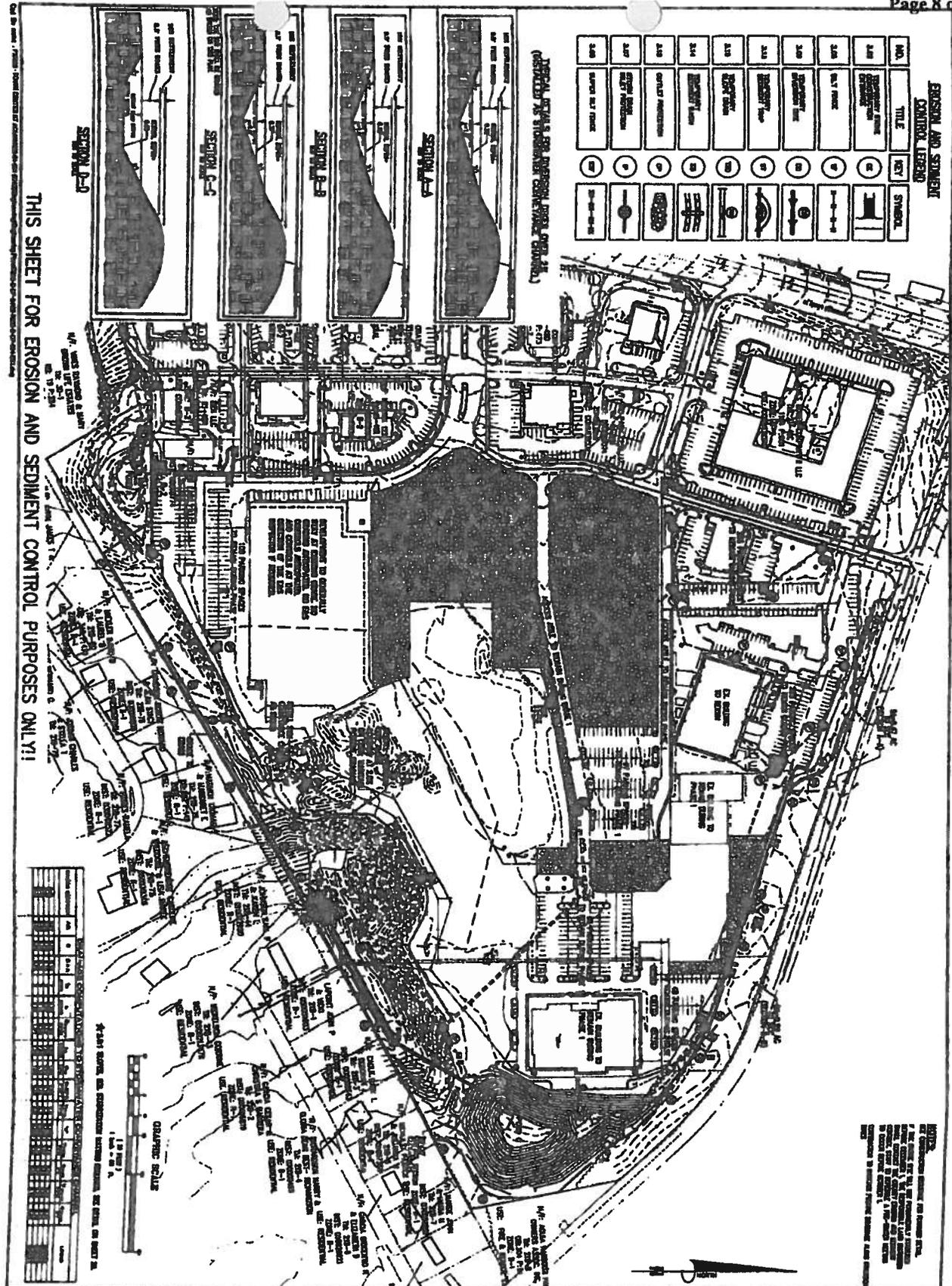
However, the Stockpiling Violation disregards the Erosion and Sediment Control Plan approved by the County, which expressly permits "[t]he temporary stockpiling of earth and construction materials" Based on the plain language of the Erosion and Sediment Control Plan, Ramco is permitted to temporarily stockpile materials, such as the gravel and concrete currently on the Property. The storage of these materials is also temporary pursuant to the extension to the validity of the Aquia Towne Center plans to July 1, 2017 granted by Virginia Code Section 15.2-2209.

Further, County Code § 28-245(e) states that a major grading plan "may be required" for stockpiling. Accordingly, such a plan is not mandatory. When the County approved the Erosion and Sediment Control Plan allowing for stockpiling, the County assumed there would be stockpiling on the Property. By approving the Erosion and Sediment Control Plan, the County expressly approved temporary stockpiling. Therefore, the County waived any grading plan requirement identified by County Code § 28-245(e). The County's attempt to require a grading plan is misplaced because Ramco has the County's approval to temporarily stockpile materials on the Property.

Conclusion

The County expressly allowed for the temporary stockpiling of earth and construction materials on the Property when it approved the Erosion and Sediment Control Plan. The

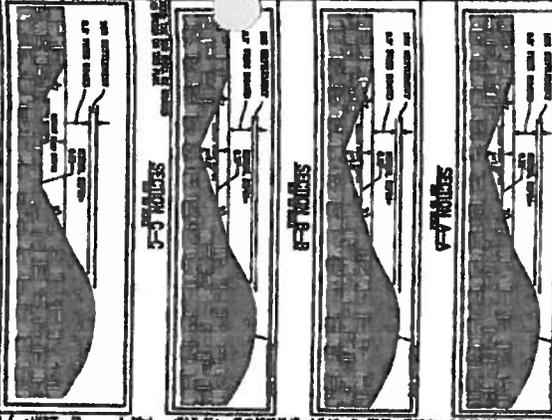
Stockpiling Violation only identifies stockpiling that is expressly allowed by the County approved Erosion and Sediment Control Plan. Therefore, the Stockpiling Violation issued to Ramco was erroneous, and Ramco requests that the Board overturn the violation issued by the Stafford County Department of Planning and Zoning.



THIS SHEET FOR EROSION AND SEDIMENT CONTROL PURPOSES ONLY!

LEGEND

NO.	TITLE	KEY	SYMBOL
2.01	CONSTRUCTION AREA	(Symbol)	(Symbol)
2.02	EXISTING ROAD	(Symbol)	(Symbol)
2.03	PROPOSED ROAD	(Symbol)	(Symbol)
2.04	PROPOSED DRIVE	(Symbol)	(Symbol)
2.05	PROPOSED DRIVE	(Symbol)	(Symbol)
2.06	PROPOSED DRIVE	(Symbol)	(Symbol)
2.07	PROPOSED DRIVE	(Symbol)	(Symbol)
2.08	PROPOSED DRIVE	(Symbol)	(Symbol)
2.09	PROPOSED DRIVE	(Symbol)	(Symbol)
2.10	PROPOSED DRIVE	(Symbol)	(Symbol)
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2.17	PROPOSED DRIVE	(Symbol)	(Symbol)
2.18	PROPOSED DRIVE	(Symbol)	(Symbol)
2.19	PROPOSED DRIVE	(Symbol)	(Symbol)
2.20	PROPOSED DRIVE	(Symbol)	(Symbol)



NO.	DESCRIPTION	DATE	BY
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241	REVISED PER COMMENTS	5/28/16	AW

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On March 4, 2013, the Stafford County Department of Planning and Zoning issued two notices of violation to Ramco. The violations do not make clear if they relate to the same portion of the property or if they are independent of one another and relate to two separate portions of the property. This appeal relates to the notice of violation assigned file number 1300103.

The notice of violation found a violation of County Code § 28-245(e) based on stockpiling material on the property. County Code § 28-245(e) states: "A major grading plan may be required for the purpose of clearing, grading or stockpiling an area twenty-one thousand seven hundred eighty (21,780) square feet (one-half acre) or more that does not involve any structures, buildings or public facilities." The zoning technician found that the "grading plan currently approved as part of the approved site plan for this property does not include any area designated for the stockpiling of material." This violation is referred to as the "Stockpiling Violation," and a copy of the Stockpiling Violation is attached as **Exhibit A**.

The County Code does not define stockpiling. However, it is Ramco's understanding that the Stockpiling Violation relates to the temporary storage of gravel and recycled concrete on the site. The Stockpiling Violation does not appear to relate to the storage of the culverts and pipes, which is addressed by notice of violation, file number 1300101, and the related appeal.

Ramco owns Stafford County Commissioner of the Revenue tax map parcel 21-49, which is zoned P-TND and is part of Aquia Towne Center (the "Property"). Ramco began to redevelop the Property, but the decline in the economy and resulting decrease in consumer spending have caused the slowdown of the redevelopment project. Accordingly, Ramco has been forced to temporarily store gravel and recycled concrete on a portion of the Property, which is approximately 38,000 square feet. These items will not be permanently left on the Property.

The use of these materials is necessary to successfully complete the project due to the steep grades on the property that would otherwise prevent retail development. The use of these materials also permits Ramco to meet certain LEED requirements and obtain "points" under the LEED system for utilizing on-site materials for a secondary purpose and reduces fuel consumption by not transporting the materials offsite and then returning the material to the site when construction occurs.

The Aquia Towne Center Erosion and Sediment Control Plan submitted to and approved by the County states on Sheet 28 under Management Strategies, Phase I, number 6:

The temporary stockpiling of earth and construction materials shall only be permitted in areas scheduled for development. Earth stockpiles shall be stabilized

with temporary vegetation in accordance with county and state erosion control practices.

Accordingly, the Erosion and Sediment Control Plan allows temporary stockpiling of construction materials on the Property.

Neither the Erosion and Sediment Control Plan nor the County Code define temporary. However, Merriam-Webster's 1998 Collegiate Dictionary defines "temporary" as lasting for a limited time. Further, the General Assembly has recognized the impact of the economy on development. The General Assembly passed Virginia Code Section 15.2-2209, which extends the validity of the Aquia Towne Center site plan to July 1, 2017 meaning that the approval of temporary stockpiling of earth and construction materials has been extended to 2017.

Lastly, the County Code does not define construction materials, but Ramco understands construction materials to mean those items used in the building process and the by-products of the building process.

Argument

Ramco received permission for the temporary stockpiling of materials as part of its Erosion and Sediment Control Plan approved by the County, and such activity does not support the notice of violation. The Stockpiling Violation states that the "grading plan currently approved as part of the approved site plan for this property does not include any area designated for the stockpiling of material."

However, the Stockpiling Violation disregards the Erosion and Sediment Control Plan approved by the County, which expressly permits "[t]he temporary stockpiling of earth and construction materials" Based on the plain language of the Erosion and Sediment Control Plan, Ramco is permitted to temporarily stockpile materials, such as the gravel and concrete currently on the Property. The storage of these materials is also temporary pursuant to the extension to the validity of the Aquia Towne Center plans to July 1, 2017 granted by Virginia Code Section 15.2-2209.

Further, County Code § 28-245(e) states that a major grading plan "may be required" for stockpiling. Accordingly, such a plan is not mandatory. When the County approved the Erosion and Sediment Control Plan allowing for stockpiling, the County assumed there would be stockpiling on the Property. By approving the Erosion and Sediment Control Plan, the County expressly approved temporary stockpiling. Therefore, the County waived any grading plan requirement identified by County Code § 28-245(e). The County's attempt to require a grading plan is misplaced because Ramco has the County's approval to temporarily stockpile materials on the Property.

Conclusion

The County expressly allowed for the temporary stockpiling of earth and construction materials on the Property when it approved the Erosion and Sediment Control Plan. The

Stockpiling Violation only identifies stockpiling that is expressly allowed by the County approved Erosion and Sediment Control Plan. Therefore, the Stockpiling Violation issued to Ramco was erroneous, and Ramco requests that the Board overturn the violation issued by the Stafford County Department of Planning and Zoning.



COUNTY OF STAFFORD
Department of Planning and Zoning
1300 Courthouse Rd
PO Box 339
Stafford, Virginia 22555-0339
Phone: (540) 658-8668
Metro: (703) 690-8222

EXHIBIT A

NOTICE OF VIOLATION

File #: 1300103
Date: Mar. 04, 2013
Parcel #: 21-49
Zoning District: P-TND
Certified Mail #: 70113500000017843394

Ramco Virginia Properties LLC
31500 Northwestern Hwy, Ste. 300
Farmington Hills, MI 48334-5408

Dear Ramco Virginia Properties LLC:

Inspection was made at 475 Aquia Towne Center Drive on 02/28/13. At that time, the following violation of Stafford County Code was noted:

VIOLATION OF: Article XIV. "Site Plans"; SEC.28-245. "When Required"

"(e) A major grading plan may be required for the purpose of clearing, grading or stockpiling an area twenty-one thousand seven hundred eighty (21,780) square feet (one-half acre) or more that does not involve any structures, buildings or public facilities." The grading plan currently approved as part of the approved site plan for this property does not include any area designated for the stockpiling of material.

Accordingly, the following corrective measures must be taken within thirty (30) day(s) from receipt of this letter:

Submit an application for a Major Grading Plan to include stockpiling and receive approval of said plan or cease stockpiling and remove all stockpiled materials from the site.

Please be aware that failure to comply with the above order may result in your being formally charged in a court of law with this violation and appropriate fines will be recommended for each day the violation continues. Each day a violation continues constitutes a separate offense. Of course, we do not wish to proceed in this manner. You have **thirty (30) days** from receipt of this letter in which to appeal this decision to the Board of Zoning Appeals, in accordance with 15.2-2311 of the Code of Virginia, or this decision shall be final and unappealable.

You may obtain the appeal application at www.staffordcountvva.gov. The associated fee is \$1952.25 for a commercial application. Should you need additional information regarding this matter, I can be reached at (540) 658-8668.

Christopher Edwards
Zoning Technician
Department of Planning and Zoning



COUNTY OF STAFFORD
Department of Planning and Zoning
1300 Courthouse Rd
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NOTICE OF VIOLATION

File #: 1300103
Date: Mar. 04, 2013
Parcel #: 21-49
Zoning District: P-TND
Certified Mail #: 70113500000017843370

Ramco Virginia Properties LLC
c/o CT Corporation System, Registered Agent
4701 Cox Road, Ste 301
Glen Allen, VA 23060-6802

Dear Ramco Virginia Properties LLC:

Inspection was made at **475 Aquia Towne Center Drive on 02/28/13**. At that time, the following violation of Stafford County Code was noted:

VIOLATION OF: Article XIV. "Site Plans"; SEC.28-245. "When Required"

"(e) A major grading plan may be required for the purpose of clearing, grading or stockpiling an area twenty-one thousand seven hundred eighty (21,780) square feet (one-half acre) or more that does not involve any structures, buildings or public facilities." The grading plan currently approved as part of the approved site plan for this property does not include any area designated for the stockpiling of material.

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Christopher Edwards
Zoning Technician
Department of Planning and Zoning

Stockpiling February, 2013



Stockpiling as of July, 2013



February 2009

Parcel: 21149



January 2010

Parcel: 2149



WASHINGTON DR

TOWN CENTER DR

AQUA TOWNE CTR DR

JEFFERSON DAVIS HWY

BERNICK LN

GARRISON LN

500

250

March 2011

Parcel: 2149



March 2012

Parcel: 2149



March 2013

Parcel: 2149

